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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/990,056 | 11/21/2001 | Jun-II Hong | 678-702(P9689) | 1468 |
| 7590 | 02/22/2005 | | EXAMINER | VU, THANH T |
| Paul J. Farrell, Esq. DILWORTH & BARRESE, LLP 333 Earle Ovington Blvd. Uniondale, NY 11553 | | | ART UNIT | PAPER NUMBER |
| | | | 2174 | |

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/990,056 | HONG, JUN-II | |
| | Examiner | Art Unit | |
| | Thanh T. Vu | 2174 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 04 October 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-5 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-5 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

This communication is responsive to Amendment, filed 10/04/2004.

Claims 1-5 are pending in this application. In the Amendment, claim 1 was amended.

This action is made Final.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Mittelstadt et al. (“Mittelstadt”, US 6,389,280).

As per claim 1, Mittelstadt discloses a device having a user interface and directional buttons (Fig.1, *menu scroll control 103, menu select control 104*) for controlling a menu shift the device comprising: a recognition module for determining if the directional buttons have been pressed and for generating a shift command (Fig.1, *control circuitry 105 includes menu logic 111*

and configuration logic 112, col.1, lines 18-19, lines 27-33, menu logic operates in response to control signals from directional buttons or scroll control); a timer module for determining the time a directional button is pressed (Fig.1, time-out logic); and a pointer carrier for shifting the position of the pointer in response to said shift command (col.3, lines 19-28, shifting the position of the pointer is implemented by scroll control 503 used to hi-light menu); wherein said shift command directs said pointer carrier to shift said pointer to a next menu item if said determined time is less than a preset time, and said shift command directs said pointer carrier to shift said pointer to a next menu page if said determined time is greater than or equal to said preset time (col.1, lines 32-34, time-out logic determines time after a menu is entered and indicates when the elapsed time exceeds a time period and in response to time-out, shifts pointer to next menu page).

As per claim 2, Mittelstadt discloses a method for controlling a menu shift in a device having directional buttons and a user interface, the method comprising: (a) checking if an event has been generated, and determining the kind of the generated event (Fig.1, *control circuitry 105 includes menu logic 111 and configuration logic 112, col.1, lines 18-19, lines 27-33, determining if the directional buttons have been pressed*); (b) operating a timer, and returning to step (a) if the generated event is a push of a directional button (Fig.1, *time-out logic*); (c) shifting a pointer currently pointing to a predetermined menu on a screen to a corresponding menu on a next page, if the generated event is a timer interrupt, that signals lapse of a predetermined time, and returning to step (a) (col.3, lines 19-28, *shifting the position of the pointer is implemented by scroll control 503 used to hi-light menu*); and (d) ceasing operation of the timer if the generated event is a release of the directional button, checking whether or not the timer interrupt had been

previously generated, and returning to step (a) if the timer interrupt has been generated and returning to step (a) after shifting the pointer to a next menu if the timer interrupt has not been generated (col.1, lines 32-34, *time-out logic determines time after a menu is entered and indicates when the elapsed time exceeds a time period and in response to time-out, shifts pointer to next menu page*).

As per claim 3, Mittelstadt discloses the method further comprising the step of returning to step (a) if the generated event is not a release of the directional button (Fig.1, *control circuitry 105 includes menu logic 111 and configuration logic 112*, col.1, lines 18-19, lines 27-33, *menu logic operates in response to control signals (i.e. pressed state) from directional buttons or scroll control*) The generated event could be a pressed state or release state of the directional button, therefore if the generated event is not a release state then it must be a pressed state.

Claim 4 is similar in scope to claim 2 and therefore is rejected under similar rationale.

Claim 5 is similar in scope to claim 4 and therefore is rejected under similar rationale.

Response to Arguments

Applicants' arguments in the Amendment have been fully considered but are not persuasive.

Applicant's primary argument is that Mittelstadt does not teach "keep track of a time for which a button is being pressed". The examiner does not agree for the following reasons:

During patent examination, the pending claims must be "given >their< broadest reasonable interpretation consistent with the specification." > In re Hyatt, 211 F.3d 1367, 1372,

54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).

In this case, the claim recites “a timer module for determining a time for which a direction button is pressed”. Mittelstadt teaches this limitation because the time-out logic 113 of fig. 1 determines a time for which a directional button is pressed (see fig. 8; col. 1, lines 30-33 and col. 3, lines 35-47.)

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh T. Vu whose telephone number is (571) 272-4073. The examiner can normally be reached on Mon-Thur and every other Fri 8:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine L. Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

T. Vu

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